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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
WINE ENTHUSIAST, INC.,

Plaintiff and Counterclaim Defendant,

against

VINOTEMP INTERNATIONAL CORPORATION,

Defendant and Counterclaim Plaintiff.  
----- X

**ORAL ARGUMENT  
REQUESTED**

No. 17 Civ. 6782 (DLC) (HP)

**NOTICE OF MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6)**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Stuart Diamond, with exhibits, and Memorandum of Law, and all of the prior pleadings and proceedings in this action, Plaintiff and Counterclaim Defendant Wine Enthusiast, Inc. (“Wine Enthusiast”), by and through its undersigned counsel, hereby moves this Court, before the Hon. Denise L. Cote, United States District Judge, Southern District of New York, at the U.S. Courthouse, 500 Pearl Street, New York, NY 10007, for an Order, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing Counterclaims Two and Three from Defendant and Counterclaim Plaintiff Vinotemp International Corporation’s Amended Answer to Complaint and Counterclaims (Dkt. #24) for failure to state a claim upon which relief can be granted and granting Wine Enthusiast such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
March 12, 2018

COWAN, LIEBOWITZ & LATMAN, P.C.

By: s/ Eric J. Shimanoff  
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To: All Counsel of Record